

MINUTES
TENNESSEE BOARD OF MEDICAL EXAMINERS
MAY 17 AND 18, 2005

The meeting was called to order at 9:00 a.m., in the Cumberland Room, Ground Floor of the Cordell Hull Building, 425 Fifth Avenue North, Nashville, Tennessee 37247-1010, by President Dr. David Cunningham. Other members present were: Drs. George Eckles, Barbara Engelhardt, Allen Edmonson, Sam Barnes, Mitchell Mutter, Charles White, Subhi Ali, Michael Zanolli, Ms. Mary Johnson, Ms. Nina Yeiser and Mr. Mark Brown. Staff present included: Rosemarie Otto, Executive Director, Marsha Arnold, Unit Manager, Dr. Larry Arnold, Medical Director, Ms. Sandra Powell, Board Administrator and Mr. Robert Kraemer, Advisory Attorney.

Minutes

Minutes from the March 15 and 16, 2005 meeting were reviewed. Ms. Yeiser made a motion to accept the minutes and Dr. Ali seconded the motion. The motion carried unopposed.

Ratification of Licenses

New, reinstated, failed to renew and voluntarily retired licenses for Medical Doctors, Medical X-Ray Operators, Athletic Trainers and Physician Assistants, Committee on Clinical Perfusionists and the Acupuncture Committee were reviewed by the Board. Dr. Mutter had questions regarding Ralph Bard, MD's name being included in the reinstatement list. Ms. Lea Phelps, Disciplinary Coordinator, stated she would pull information concerning Dr. Bard and report back later. Dr. White made a motion to ratify the approval of licenses with the exclusion of Dr. Bard. Ms. Yeiser seconded the motion. The motion carried unopposed.

Ms. Phelps returned with information pertaining to Dr. Bard being listed on the reinstatement list. Dr. Mutter, who was a panel member when the matter of Ralph Bard, MD was heard, had a recollection that Dr. Bard had agreed to surrender his medical license. Rosemarie Otto, who was also present at the hearing in the Bard matter, said it was her recollection that Dr. Bard agreed only to suspend his medical license for a short period of time but permanently cease performing surgery. After further discussion, Ms. Otto informed the Board and Dr. Mutter that she would obtain a copy of the transcript for his review. If he had any questions following his review of the transcript, he would let Ms. Otto know and the matter of Ralph Bard would be placed back on the agenda for the next Board meeting.

New Applicant Interview

Robert Graham Cooper, MD-Dr. Cooper is applying for license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Cooper's application for the Board. A Consent Order was placed on Dr. Cooper's medical license in Louisiana regarding his use of alcohol and mood altering substances. Dr. Cooper informed the Board that his specialty is in general surgery and his wife's profession is in nursing and their plans are to relocate to East Tennessee. Dr. Cooper explained the malpractice issues to the Board. Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation was present to advocate for Dr. Cooper. Dr. Gray informed the Board that he would advocate for Dr. Cooper. Dr. Edmonson made a motion to follow Dr. Arnold's recommendation to grant Dr. Cooper a license contingent upon Dr. Cooper signing a contract with TMF. Dr. Mutter seconded the motion. The motion carried unopposed.

Michael Robert Ellis, MD-Dr. Ellis is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Ellis' file for the Board. Dr. Ellis' Massachusetts medical license was reprimanded for obtaining a license by fraudulent misrepresentation and failure to disclose required information. Dr. Mutter stated his concerns were about Dr. Ellis not being truthful in 1999 regarding his past misdemeanors. After further discussion, Ms. Yeiser made a motion to grant Dr. Ellis a license and Dr. Engelhardt seconded the motion. Dr. Edmonson opposed. The motion carried.

Priscilla A. Frase, MD-Dr. Frase is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Frase's file for the Board. Dr. Frase participates in a monitoring program through the Tennessee Medical Foundation. Dr. Roland Gray, Medical Director for TMF spoke on behalf of Dr. Frase. Dr. Edmonson made a motion to grant Dr. Frase a license contingent upon a lifetime advocacy with TMF. Ms. Yeiser seconded the motion. The motion carried unopposed.

Kwadwo Gyarteng-Dakwa, MD-Dr. Dakwa is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Dakwa's file for the Board. Dr. Dakwa addressed the Board regarding the gaps in his post graduate training. After further discussion, Dr. Ali made a motion to grant Dr. Dakwa a license and Dr. Mutter seconded. The motion carried unopposed.

Alexander George Kammer, MD-Dr. Kammer is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Kammer's file for the Board. Dr. Kammer had a case of gross malpractice in which the settlement was over five million dollars (\$5,000,000). Dr. Kammer has several other smaller cases. Ms. Yeiser made a motion to deny license as Dr. Arnold recommended and Dr. White seconded the motion. Dr. Engelhardt's suggestion was to give Dr. Kammer the option to withdraw his application and consider enrolling in a mini residency before re-applying. Dr. Kammer withdrew his application.

Jo Ed Parkey, MD-Dr. Parkey is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Parkey's file for the Board. Dr. Parkey presently has a malpractice case pending in Louisiana. After further discussion, Dr. Engelhardt made a motion to grant Dr. Parkey a license and Dr. Eckles seconded the motion. The motion carried unopposed.

Jay K. Radhakrishnan, MD-Dr. Radhakrishnan is applying for a license to practice medicine in Tennessee. Dr. Arnold reviewed Dr. Radhakrishnan's file for the Board. Dr. Radhakrishnan was disciplined in Florida. As a part of that discipline, he was ordered to pay a fine. At the time of his interview, Dr. Radhakrishnan had failed to pay that fine since he did not plan on returning to practice in Florida. Dr. White stated fines should be paid in Florida before a license is issued in Tennessee. The Board seemed to agree. Dr. Radhakrishnan withdrew his application.

Ryan Bonanno, AT-Mr. Bonanno had been working as an Athletic Trainer without a license since 2003 and has applied for a license to practice as an Athletic Trainer in Tennessee. Bob Kraemer explained to the Board that their only decision required at this meeting is whether to grant or deny Mr. Bonanno's license. The issues regarding his unlicensed practice were being handled through the appropriate channels within the Department. It is likely that the matter of the unlicensed practice will be before them as a disciplinary matter at a later date, their decision today notwithstanding. With that in mind, Dr. Edmonson made a motion to grant Mr. Bonanno a license and Dr. White seconded the motion. The motion carried unopposed.

Reinstatement Interviews

Orville Jack Duncan, MD-Dr. Duncan is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. Duncan's file for the Board. Dr. Duncan retired his license in 1993 and has not practiced for eleven years. After further discussions, Dr. White made a motion to grant Dr. Duncan reinstatement of his license restricting it to administrative practice only and contingent upon completion of fifty (50) hours of continuing medical education. The motion was seconded by Ms. Yeiser. The motion carried unopposed.

Oscar Dean Walter Webb, MD-Dr. Webb is applying for reinstatement of his Tennessee medical license. Dr. Arnold reviewed Dr. Webb's file for the Board. Dr. Webb informed the Board that he has been on disability but plans on relocating to the Memphis area to practice. After further discussions, Dr. Mutter made a motion to approve the reinstatement of Dr. Webb's license pending proof of all his continuing medical education hours. Dr. White seconded the motion. The motion passed unopposed.

Ratification of Denial/Renewal of License

Pamela Ventra, MD-Dr. Ventra is applying for renewal of her Tennessee medical license. Dr. Arnold informed the Board that Dr. Ventra's medical license is currently summarily suspended. Dr. Ventra indicated on the back of her renewal that she was "currently in poor physical and/or mental health". Dr. Arnold recommended denial of Dr. Ventra's renewal. Dr. Edmonson made a motion to accept Dr. Arnold's recommendation for denial of her renewal and Dr. White seconded the motion. The motion carried.

Rule Action

Jerry Kosten, Rules Coordinator, informed the Board of the need for a rulemaking hearing concerning prescription writing, allowing participation by physician assistants in Medical Professional Corporations and Medical Professional Limited Liability Companies and

requirements for X-Ray Operators to conduct bone density exams. Dr. White made a motion to authorize a new rulemaking hearing and Dr. Zanolli seconded the motion. The motion passed unopposed.

Mr. Kosten reviewed the renewal and reinstatement rules for Athletic Trainers and mandatory criminal background checks and informed the Board that no one attended the rulemaking hearing which was held March 22, 2005 and there were no comments. Dr. Zanolli made a motion to accept the rule and Ms. Johnson seconded the motion. Following a roll call vote, the motion was adopted by unanimous vote.

Ratification of the Rule adopted by the Physician Assistants Committee regarding mandatory criminal background checks was reviewed by Mr. Kosten. Dr. Edmonson made a motion to ratify the action taken by the Committee on Physician Assistants in adopting the Rule. Dr. Engelhardt seconded the motion. The motion carried unopposed.

Discussions

Ms. Robbie Bell, Director for Health Related Boards and Dr. Arnold opened a discussion concerning the TACT study. Ms. Bell urged board members to seriously consider approving applicant's for the study. Dr. Arnold stated there was one applicant, Dr. James M. Holbert that had applied for approval using Baptist Hospital for his Institutional Review Board (IRB). Two other physicians, Drs. Holliday and Allen have requested to participate, using Sterling IRB. Dr. Arnold reviewed the information he had received on Sterling Institute for the Board. Dr. Mutter stated that if NIH approves Sterling then the Board will be in a favorable position to approve Drs. Holliday and Allen. Dr. Engelhardt's suggestion was to delay voting until more information has been received. Dr. Cunningham suggested approving the physicians pending confirmation by NIH of Sterling's standing with them. Dr. Zanolli made a motion to approve Sterling as an IRB contingent upon NIH's written approval. Dr. Ali seconded the motion. The motion passed unanimously.

Dr. Arnold informed the Board that Dr. Holbert is using Baptist Hospital as his IRB and has requested the Board's approval. Dr. Mutter made a motion to approve Dr. Holbert and Dr. Ali seconded the motion. The motion passed unopposed.

Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation reported on the TMF activities for 2004 and the first part of 2005. Dr. Gray also requested the Board's contribution to TMF be increased by any amount the Board could currently afford. Ms. Otto reported the status of BME finances and advised the Board of the upcoming expenses that the Board will incur. Dr. Ali made a motion to start the process of granting a \$50,000 increase in funding to TMF and Dr. Mutter seconded the motion. Ms. Yeiser opposed. The motion carried.

Reports

Budget Report

The budget report was reviewed by the Board.

Director's Report

Ms. Otto reviewed her report for the Board.

Investigation Report

Ms. Lea Phelps, Disciplinary Coordinator reviewed the report submitted by the Bureau of Investigation in the absence of Ms. Denise Moran, Director.

Disciplinary Report

Ms. Lea Phelps reviewed her disciplinary report for the Board and stated the amount of fees collected for the year to date.

OGC Report

Mr. Robert Kraemer reviewed his OGC report for the Board. Mr. Kraemer reported on the current status of various Board rules. Mr. Kraemer also reviewed the following Public Chapters: Public Chapter 12, Public Chapter 20, Public Chapter 53 and Public Chapter 59

"Noteworthy" section for the Internet

The Board did not designate anything for the "noteworthy" section of the internet.

Adjourned for lunch at 12:00 noon and reconvened in the Cumberland Room at 1:00 p.m.

Disciplinary Action

Magnolia Room

8:30 a.m.

Panel: Johnson, Eckles, White

Agreed Order

Rosaire Dubrule, MD-Dr. Dubrule was present and represented by legal counsels, Mr. Russell X. Thompson and Mr. Robert L. Green. Ms. Shiva Bozarth represented the State. Dr. Dubrule's medical license is currently summarily suspended. The Order of Summary Suspension, Notice of Charges and the proposed Agreed Order were handed out to the panel for review. Dr. Dubrule violated T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214 (b) (4), T.C.A. 63-6-214 (b) (12) and T.C.A. 63-6-214 (b) (13). The proposed Agreed Order states that Dr. Dubrule's Tennessee medical license is suspended for a period of two (2) years. Prior to reinstatement of his license, Dr. Dubrule is to enroll in the Colorado Physicians Education Program and comply with all of

the requirements for its students and all of its recommendations. Prior to reinstatement of Dr. Dubrule's license, he shall have his office inspected by the Tennessee Department of Health to ensure that it complies with the requirements of the Occupational Safety and Health Administration (OSHA) and the Tennessee Occupational Safety and Health Administration (TOSHA). Dr. Dubrule must show compliance with these requirements prior to applying for reinstatement of his license. Once Dr. Dubrule's license is reinstated, he shall be placed on probation by the board for five (5) years. During the probationary period, Dr. Dubrule shall keep no weapons or firearms of any kind in or around any facility from which he provides medical services. Dr. Dubrule's office or any facility that he maintains for the provision of medical services shall be subject to inspection at least once a quarter by the Tennessee Department of Health to ensure that the facility is kept in a clean and orderly fashion, that all requirements of OSHA and TOSHA are being met, and that the other provisions of the Order are being complied with. Dr. Dubrule shall produce for review by a licensed Medical Doctor his patient charts, files and records on a quarterly basis. The reviewing Medical Doctor must be approved by the Board. Dr. Dubrule agrees to permanently surrender his Drug Enforcement Agency license to prescribe controlled substances. Dr. Eckles made a motion to accept the proposed Agreed Order and Ms. Johnson seconded the motion. The motion passed unopposed.

Adjourned at 11:00 a.m.

Cumberland Room:

Panel: Barnes, Yeiser, Johnson, Zanolli, Mutter

Agreed Order

Rena Klarich, MD-Dr. Klarich was not present but was represented by legal counsel, Mr. John King. Mr. Andrae Crismon represented the State. Mr. Crismon presented an Agreed Order of Revocation to the panel for review. Dr. Klarich is charged with violating T.C.A. 63-6-214(b) (1), T.C.A. 63-6-214(b) (5) and T.C.A. 63-6-214(b) (12). The Agreed Order of Revocation states that Dr. Klarich's license to practice medicine in the State of Tennessee is formally revoked. Dr. Klarich may not apply for a new medical license prior to the expiration of least one (1) year from the effective date of the Order. At such time that Dr. Klarich may apply for a new medical license in the future, he shall be required to personally appear before the Board as part of making such application for new licensure. At such time that Dr. Klarich may apply for a new medical license in the future, the application will be considered under the applicable statutes, together with the rules and regulations promulgated by the Board, in effect at the time of his application for a new license. Ms. Johnson made a motion to accept the Agreed Order of Revocation and Dr. Zanolli seconded. The motion passed.

Contested Case Hearing

Luther Ogle, MD- Dr. Ogle was present and represented by legal counsel, Mr. Dan Warlick of the Nashville Bar. Mr. Andrae Crismon represented the State. The Honorable Phillip Barber, Administrative Law Judge presided. After opening statements by both sides, Mr. Crismon began the State's proof by publishing an Amended Notice of Charges. (Mr. Warlick also published a

response to the State's Amended Notice of Charges.) Dr. Ogle was charged with violating T.C.A. 63-6-214 (b) (1) and T.C.A. 63-6-214 (b) (4). The State called Thomas C. Farrar, MD as its expert witness. Dr. Farrar, like Dr. Ogle is an emergency room physician. Dr. Farrar was examined by Mr. Crismon, cross-examined by Mr. Warlick and answered questions offered to him by the panel. During testimony, Dr. Farrar could not testify that the actions taken by Dr. Ogle (or the omissions), rose to the level of gross malpractice. Moreover, he could not testify that those acts or omissions constituted a pattern of negligence or repeated malpractice. Following Dr. Farrar's testimony, the State rested. Rather than put on a defense, Mr. Warlick, arguing that the State failed to put on proof that Dr. Ogle violated T.C.A. 63-6-214 (b)(1) or T.C.A. 63-6-214 (b)(4), asked for a directed verdict followed by a motion to dismiss. The Board concurred with Mr. Warlick and, following a motion by Dr. Mutter and a second by Ms. Yeiser to grant Mr. Warlick's motion, the Notice of Charges against Dr. Ogle was dismissed.

Tennessee Room

Panel: Cunningham, Ali, Edmonson, Brown, Eckles, White

Agreed Order

Barry Willbrant, MD-Dr. Willbrant was not present nor represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer handed out the proposed Agreed Order to the panel for review. Dr. Willbrant is charged with violating T.C.A. 63-6-214 (b) (1). Dr. Willbrant allowed an orthopedic physician assistant to practice without a protocol and provide medical services that were beyond the scope of his license. The proposed Agreed Order states that Dr. Willbrant is assessed and shall pay, within thirty (30) days of the date of the Order, fifteen (15) Type C civil penalties each in the amount of one hundred dollars (\$100.00) for a total of one thousand five hundred dollars (\$1, 500.00). Dr. White made a motion to accept the proposed Agreed Order and Mr. Brown seconded the motion. The motion passed.

Steven Gary Marchbank, MD-Dr. Marchbank was not present nor represented by legal counsel. Mr. Robert Kraemer represented the State. Mr. Kraemer handed out the proposed Agreed Order to the panel for review. Dr. Marchbank is charged with violating T.C.A. 63-6-214 (b) (1), T.C.A. 63-6-214 (b) (3) and T.C.A. 63-6-214 (b) (12). Dr. Marchbank became addicted to controlled substances in May of 2003 and used Hydrocodone and Percocet while he was licensed to practice medicine and wrote prescriptions to co-workers and acquaintances for controlled substance pain medication, who would in turn, filled those prescriptions and pursuant to agreement, then gave him the medications. The proposed Agreed Order states that Dr. Marchbank's license to practice medicine is suspended for a period of three (3) months (which will make it at least one (1) full year that he has not practiced medicine) from the date of this Order. After the expiration of the three (3) months the suspension shall be automatically lifted after receipt of proof satisfactory to the Board's Medical Director of Dr. Marchbank's personal attendance at thirty (30) hours of pediatric continuing medical education. These hours shall be in addition to the hours he is required to obtain pursuant to Board rule 0880-20.19. On the date upon which the suspension is lifted, Dr. Marchbank's license shall be placed on probation for a period of no less than five (5) years during which he must remain under contract with the Tennessee Medical Foundation and cause that Foundation to:

- (a) Send quarterly reports on Dr. Marchbank's progress to the Board's Medical Director; and
- (b) Notify the Board's Medical Director of any relapse, loss of advocacy, or any violation of his contract.

Dr. Marchbank may not apply for a Drug Enforcement Agency certificate for a period of one (1) year from the date of the Order. After that year, Dr. Marchbank must petition and appear before the Board and receive the Board's permission before applying for such certificate. Upon successful completion of the probation ordered of the Order, Dr. Marchbank must petition for an Order of Compliance pursuant to rule 0880-2-.12 (2) and appear before the Board before such Order shall be issued. Dr. Marchbank is assessed and shall pay, within thirty (30) days of the date of the Order, one (1) Type A civil penalty in the amount of five hundred dollars (\$500.00). Dr. White made a motion to accept the proposed Agreed Order and Dr. Eckles seconded the motion. The motion passed.

William Long, MD-Dr. Long was not present but he was represented by legal Counsel, Mr. Donald S. Caulkins. Ms. Wilma T. James represented the State. Ms. James handed out the proposed Agreed Order to the panel for review. Mr. Caulkins spoke on behalf of Dr. Long and stated that Dr. Long has severe health problems. Dr. Long is charged with violating T.C.A. 63-6-214(b) (1) and T.C.A. 63-6-214(b) (18). The proposed Agreed Order states that Dr. Long must immediately surrender his license to practice medicine in the State of Tennessee. Dr. Long is hereby ordered to surrender his United States Drug Enforcement Administration Uniform Controlled Substances Registration Certificate, commencing with the effective date of the proposed Agreed Order. Dr. Long may not seek to have his DEA Registration Certificate reissued without consent from the board. At such time that respondent may apply for a new medical license in the State of Tennessee, the application will be considered under the applicable statutes, together with the rules and regulations promulgated by the board, in effect at the time of Dr. Long's application for new licensure. At such time that Dr. Long may apply for a new medical license in the State of Tennessee, he is required to petition and personally appear before the Board as part of making such application and present evidence to the Board that the following requirements have been successfully completed:

- a. Dr. Long must demonstrate through competent medical proof that he has completed a recognized residential addiction treatment program and has displayed at least two (2) years of behavioral stability before applying for a new license;
- b. Dr. Long shall attend and successfully complete a recognized anger management program. Proof of satisfactory completion of such program must be provided to the Board prior to applying for a new license.
- c. Prior to applying for a new license, Dr. Long must provide the Board with reports from three (3) physicians who have assessed his mental and physical conditions: a doctor who can verify that he is not drug addicted; a doctor clearing him of anger management issues; and a doctor who can verify that he is physically capable of safely treating

patients. Each of these practitioners must provide a written report to the Board that confirms that Dr. Long's physical and mental conditions are currently stabilized and do not prevent him from practicing medicine with reasonable skill and safety.

Dr. Long is hereby assessed five (5) Class "A" Civil Penalties in the amount of one thousand (\$1,000.00) dollars each, for a total of five thousand (\$5,000) dollars, to be paid within six (6) months from the effective date of this Agreed Order. Dr. Long is hereby ordered to pay all court costs incurred in connection with this matter including investigatory, administrative, and reporting costs. Such costs shall be paid within thirty (30) days of the receipt of the Affidavit of Costs. Costs execution may be issued if necessary. Dr. Eckles made a motion to accept the proposed Agreed Order and Dr. Ali seconded the motion. The motion carried unopposed.

Consent Order

Wade Tanner, MD-Dr. Tanner was not present nor represented by legal counsel. Ms. Andrei Lee represented the State. The proposed Consent Order was handed out to the panel for review. Dr. Tanner is charged with violating T.C.A. 63-6-214 (b) (1) and T.C.A. 63-6-214 (b) (12). Dr. Tanner inappropriately and illegally wrote prescriptions for opiod narcotics (Lortab) using the names of fictitious and/or non-existent patients. Said prescriptions were for Dr. Tanner's personal use. The proposed Consent Order states that Dr. Tanner must immediately surrender his Tennessee license to practice medicine in the State of Tennessee. Dr. Tanner shall not be eligible to petition the Board for the reinstatement of the previously issued medical license. Dr. Tanner may not apply for a new Tennessee medical license prior to the expiration of at least one (1) full year from the effective date of this Order. During the term of his surrender and as a condition precedent to applying for a new medical license, Dr. Tanner must produce quarterly reports to the Board from his treating psychiatrist and/or physician. At such time that Dr. Tanner may apply for a new medical license in the State of Tennessee, he shall be required to personally appear before the Board as part of making such application for new licensure and present evidence to the Board that he has obtained and will maintain the advocacy of the Tennessee Medical Foundation. Dr. Tanner shall maintain his Physician Aftercare and Monitoring Agreement with TMF and shall comply with each and all of the requirements of such Agreement. Dr. Tanner hereby consents to and directs TMF to disclose to the Board any and all violations of such Agreement by him, including any relapses and/or positive screening. Dr. Tanner acknowledges and agrees that any violation of such Agreement shall constitute a violation of this Order and the Tennessee Medical Practice Act and may serve as a basis for a disciplinary complaint against him. Dr. Tanner must surrender his United States Drug Enforcement Administration Uniform Controlled Substances Registration Certificate, commencing with the effective date of the Consent Order. Dr. Tanner may not seek to have his DEA Registration Certificate reissued without consent from the Board and for at least one (1) full year commencing with the effective date of the Consent Order. At such time that Dr. Tanner may apply for a new medical license in the future, the application will be considered under applicable statutes, together with the rules and regulations promulgated by the Board, in effect at the time of his application for new licensure. Dr. Tanner shall attend a three (3) day seminar entitled: "*Prescribing Controlled Drugs*", which is offered at the Center for Professional Health at Vanderbilt University Medical Center, in Nashville, Tennessee, or equivalent course approved

by the Board, and provide proof of attendance to the Board. Dr. Eckles made a motion to accept the proposed Consent Order and Dr. White seconded the motion. The motion passed.

Raymond Turek, MD-Dr. Turek was not present nor represented by legal counsel. Ms. Andrei Lee represented the State. The Consent Order was handed out to the panel for review. Dr. Turek is charged with violating T.C.A. 63-6-214 (b) (10). On April 30, 2004, Dr. Turek filed a Petition to Enter a Guilty Plea for Health Care Fraud and Money Laundering in the United States District Court for the Middle District of Tennessee which was subsequently granted and accepted on July 19, 2004. On July 19, 2004, the United States District Court for the Middle District of Tennessee sentenced Dr. Turek to thirty (30) months imprisonment in the custody of the United States Bureau of Prisons, two (2) years of supervised release upon release from imprisonment, and criminal penalties of two hundred dollars (\$200.00) for assessment and two million three hundred thousand dollars (\$2,300,000.00) for restitution. The proposed Consent Order states that Dr. Turek shall immediately surrender his Tennessee license to practice medicine in Tennessee. Dr. Turek may not apply for a new license prior to the expiration of at least one (1) full year from the effective date of the Order. Dr. Turek shall be and is hereby required to personally appear before the Board as part of making such application for new licensure and present evidence to the Board that he has completed all of the terms and conditions of the judgment of conviction against him, including supervised release, but excepting payment of restitution. Dr. Turek shall pay two (2) Type B civil penalties in the amount of five hundred dollars (\$500.00) each, assessed for each felony to which he pled guilty, a total of one thousand dollars (\$1,000.00) in civil penalties, representing violations of the Tennessee Medical Practice Act or regulations or both in such a manner as to impact directly on the care of patients or the public. Any and all civil penalties shall be paid in full within twelve (12) months of the completion of Dr. Turek's two (2) year term of supervised release pursuant to his judgment of conviction. Dr. White made a motion to accept the proposed Consent Order and Dr. Edmonson seconded the motion. Dr. Cunningham opposed. The motion passed.

Order of Compliance

Otis Campbell, Jr., MD-Dr. Campbell was present but not represented by legal counsel. Mr. Robert Kraemer represented the State. Dr. Campbell was charged with violating T.C.A. 63-6-214 (b) (2). On March 7, 2000, Dr. Campbell entered into an Agreed Order. The Agreed Order required Dr. Campbell's medical license be placed on a two (2) year probationary status and required him to:

- a. pay a civil penalty of three thousand (\$3,000) dollars within 30 days of the effective date of the order.
- b. complete twelve (12) hours of continuing medical education (CME) in medical ethics by the end of this two (2) year probation period. The continuing medical education must be approved by the Medical Director of the Tennessee Board of Medical Examiners;
- c. submit written proof of his compliance to the Board; and

- d. shall petition and personally appear before the Board of Medical Examiners at the expiration of two (2) years from the effective date of probation and absent further action by the Board for the lifting of said probation.

Ms. Lea Phelps, Disciplinary Coordinator informed the Board that Dr. Campbell has paid his civil penalties and complied with the Board's Order. Dr. Edmonson made a motion to grant the Order of Compliance and Mr. Brown seconded the motion. The motion passed unopposed.

Adjourned at 3:20 p.m.

May 18, 2005

Cumberland Room

9:20 a.m.

Panel: Barnes, Yeiser, Johnson, Zanolli, Mutter

Contested Case Hearing

Alan Wade Alexander, MD-Dr. Alexander was present and represented by legal counsel, Mr. Frank Scanlon. Ms. Laurie Doty represented the State. The Honorable Phillip Barber, Administrative Law Judge presided. Ms. Doty handed out the Notice of Charges to the panel for review. Dr. Alexander is charged with violating T.C.A. 63-6-214 (b) (20). On or about December 29, 2003, before the Board of Medical Examiners, State of North Dakota, Dr. Alexander's license to practice medicine in that state was revoked as a result of engaging in sexual abuse, misconduct, and exploitation related to his practice of medicine in North Dakota and engaging in the prescription, administration, or gift of any drug legally classified as a controlled substance or as an addictive or dangerous drug for other than medically accepted therapeutic purposes. Ms. Doty had no opening statement. Mr. Scanlon introduced Dr. Alexander to the panel and gave background information on him. Dr. Alexander was called upon to testify. He described his health related issues, including Narcolepsy. Dr. Alexander responded to questions offered by Mr. Scanlon, Ms. Doty and the panel members. Closing statements were given by Ms. Doty, followed by Mr. Scanlon. The panel went into deliberations. Dr. Zanolli made a motion to accept the Finding of Facts and Ms. Yeiser seconded the motion. The motion passed unopposed. Ms. Yeiser made a motion to accept the Causes of Action and Dr. Mutter seconded the motion. The motion passed. Ms. Yeiser made a motion to revoke Dr. Alexander's Tennessee medical license for one year at which time he can apply for a new license. The motion was seconded by Dr. Mutter. The motion passed unopposed. Ms. Johnson made a motion to assess costs and Ms. Yeiser seconded the motion. The motion passed.

Allen Oladinni, MD-Dr. Oladinni was present and represented by Frank Scanlon. Ms. Laurie Doty represented the State. The Honorable Phillip Barber, Administrative Law Judge presided. Dr. Oladinni is charged with violating T.C.A. 63-6-214 (b) (20). Dr. Oladinni previously held an unencumbered medical license in the State of Kentucky. Based on the allegations that

Dr. Oladinni engaged in inappropriate sexual contact, the Kentucky board of Medical Licensure entered into an Agreed Order of Probation on May 30, 1997. Dr. Oladinni's medical license was placed on probation for a period of five (5) years. January 2001, Dr. Oladinni's Tennessee medical license was suspended indefinitely. The Order stated that Dr. Oladinni shall restrict his practice to a hospital, clinic, practitioner's office or location approved by the Medical Director of the Board. Dr. Oladinni shall only render medical care to patients whose care is reviewed and supervised by a Preceptor qualified under the CPEP Education Plan and approved in writing by the Medical Director of the Tennessee Board of Medical Examiners. Dr. Oladinni shall submit to the Board a monthly report from the CPEP Program stating his continuance and satisfactory participation in the CPEP Program. The Notice of Charges of 2004 was handed to the panel for review. The Order stated that pursuant to the Order issued January 23, 2001, Dr. Oladinni shall ensure that all provisions of the Colorado Personalized Education for Physicians (CPEP) program are properly and timely effectuated in accordance with the directives of the CPEP program. The effective date of the Order issued September 25, 2003 stated that Dr. Oladinni had not properly or effectively effectuated the provision of the CPEP program and is in violation of the January 23, 2001 Order as a result in not completing the program. Dr. Oladinni was called upon to testify followed by Dr. Roland Gray, Medical Director for the Tennessee Medical Foundation. The panel went into deliberations. Dr. Mutter made a motion to accept the Finding of Facts as proven by the State and Ms. Yeiser seconded the motion. The motion passed. Dr. Mutter made a motion to add that Dr. Oladinni get TMF advocacy and Ms. Yeiser seconded the motion. The motion passed. Ms. Yeiser made a motion for Dr. Oladinni to start all over again in the CPEP program as a new participant since the previous CPEP is no longer valid. Dr. Mutter seconded the motion. The motion passed. Dr. Zanolli made a motion that Dr. Oladinni complete the CPEP program within two (2) years or his medical license will be revoked and Ms. Yeiser seconded the motion. After a brief discussion, Dr. Zanolli withdrew the motion followed by a second from Ms. Yeiser. Dr. Zanolli made a motion to accept the Conclusions of Law #12 pursuant to T.C.A. 63-6-214 (b) (1) and Ms. Johnson seconded the motion. The motion passed unopposed. Dr. Mutter made a motion to accept #13 of the Conclusions of Law pursuant to T.C.A. 63-6-214 (b) (2). The motion was seconded by Dr. Zanolli. The motion passed unopposed. Dr. Mutter made a motion based on the Finding of Facts and the Conclusions of Law to revoke the medical license of Dr. Oladinni and waive the civil penalty. Ms. Yeiser seconded the motion. The motion passed. The policy statement was read and accepted to protect the health, safety and welfare of the citizens of the State of Tennessee.

Daniel Logan, MD-Dr. Logan was present but not represented by legal counsel. Mr. Thomas Miller represented the State. The Honorable Phillip Barber, Administrative Law Judge presided. The Notice of Charges were handed out to the panel for review. Dr. Logan is charged with disciplinary actions by another state, substance abuse, unethical conduct, making fraudulent statements, gross malpractice and engaging in the practice of medicine when mentally or physically unable to safely do so, which is a violation of T.C.A. 63-6-214 (b)(1), T.C.A. 63-6-214 (b)(2), T.C.A. 63-6-214 (b)(3), T.C.A. 63-6-214 (b)(4), T.C.A. 63-6-214 (b)(5) and T.C.A. 63-6-214 (b)(12), T.C.A. 63-6-214 (b)(13), T.C.A. 63-6-214 (b)(14), T.C.A. 63-6-214 (b)(18) and T.C.A. 63-6-214 (b)(20). Mr. Miller gave his opening statements. Dr. Logan presented the panel with proof of his treatment. The panel went in to deliberations. Ms. Yeiser made a motion to accept the Finding of Facts with Dr. Mutter's amendment to #21. Dr. Zanolli seconded the motion. The motion passed unanimously. Dr. Mutter made a motion to accept the Conclusions

of Law and Ms. Yeiser seconded the motion. Dr. Zanolli opposed. The motion passed. Dr. Mutter made a motion to mirror Kansas' actions and Ms. Johnson seconded the motion. The motion passed unopposed. Ms. Yeiser made a motion to not assess civil penalties but to assess costs. Ms. Johnson seconded the motion. The motion passed. The policy statement was read and accepted to protect the health, safety and welfare of the citizens of the State of Tennessee.

James E. Fulton, MD-Dr. Fulton was not present nor represented by legal counsel. Mr. Thomas Miller represented the State. The Honorable Phillip Barber, Administrative Law Judge presided. Mr. Miller informed the panel that all attempts were made to notify Dr. Fulton and were returned undeliverable. Mr. Miller asked to proceed in default. Dr. Zanolli made a motion to proceed in Default and Ms. Johnson seconded the motion. The motion passed unopposed. Mr. Miller handed out the Notice of Charges and Final Order to the panel for review. Dr. Fulton is charged with disciplinary actions by another state, unethical conduct, gross malpractice or pattern of continued or repeated malpractice and making fraudulent statements all in violation of T.C.A. 63-6-214 (b)(1), T.C.A. 63-6-214 (b)(3), T.C.A. 63-6-214 (b)(4) and T.C.A. 63-6-214 (b)(20). The proposed Final Order states that Dr. Fulton's license to practice medicine in the State of Tennessee is hereby revoked. Dr. Fulton must pay the actual and reasonable costs of prosecuting the case to the extent of the law. The panel went into deliberations. Ms. Johnson made a motion to accept the Final Order as presented and Ms. Yeiser seconded the motion. The motion passed unopposed. The policy statement was read and accepted to protect the health, safety and welfare of the citizens of the State of Tennessee.

Adjourned at 4:30 p.m.

Dr. Allen S. Edmonson, Secretary

Date

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